

Court No. 6
(265719)

09.09.2025
(AD 8)
(S. Banerjee)

CO 3303 of 2025

Md. Alam Ansari & Ors.
Vs.
Syed Nazmul Hossain & Ors.

Mr. Haradhan Banerjee
Mr. P. P. Mukhopadhyay

...for the petitioners

On the prayer of the learned advocate appearing for the petitioner, leave is granted to the advocate-on-record of the petitioner to amend the prayer portion here and now.

The issue that arises for consideration is whether a defence against delivery of possession can be struck off only on the ground of rejection of the application under Section 7(1) and 7(2) of the West Bengal Premises Tenancy Act, 1997 in a case where the defendant has raised a dispute as to the relationship of landlord and tenant between the parties.

The petitioner filed the applications under Section 7(1) and 7(2) of the 1997 Act raising a dispute as to the landlord-tenant relationship between the parties and for adjudication of the amount of rent, if any, payable by the petitioner to the opposite parties.

Such applications were rejected by an order dated January 18, 2020 together with the petitions under Section 5 of the Limitation Act.

The petitioner challenged this order dated January 18, 2020 by filing a civil revision application being CO 389 of 2020.

Mr. Banerjee, learned advocate appearing for the petitioner submits that in view of the law laid down by the Hon'ble Supreme Court that the delay in filing the application under Section 7(1) and 7(2) of the 1997 Act cannot be condoned, Mr. Banerjee, learned advocate appearing for the petitioner, on instruction, submits that he shall not press CO 389 of 2020 any further.

Such submission of Mr. Banerjee is placed on record. It will be open to the petitioner to take appropriate steps in that regard.

The petitioner has filed another civil revision application being CO 2674 of 2023 challenging an order being no. 29 dated July 19, 2023 wherein the submission of the plaintiff was recorded to the effect that since the application under Section 7(1) of the 1997 Act was rejected, the application under Section 7(2) of the said Act should be automatically rejected and the defence of the defendant should be struck off.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the said civil revision application is pending and the petitioner shall pursue the same in accordance with law.

Mr. Banerjee, learned advocate appearing for the petitioner places reliance upon the decisions of this Hon'ble Court reported in the case of *Biswanath Roy -Vs.- Annapurna Roy*, reported at 1997(1) CHN 1 and in the case of *Baidyanath Kundu -Vs.- Sm. Jyotshna Rani Karmakar*, reported at AIR 1972 Cal 443.

Since an arguable point has been raised by Mr. Banerjee, learned advocate appearing for the petitioner, this court is inclined to admit the civil revision application.

The petitioner is directed to serve a copy of this application upon the opposite parties by registered speed post with acknowledgement due and file an affidavit of service on the next date.

There shall be stay of all further proceedings in Ejectment Suit No. 283 of 2019 pending before the learned Judge, 3rd Bench, Presidency Small Causes Court at Calcutta, till the end of the month of January, 2026 or until further order, whichever is earlier.

List this matter under the heading 'Contested Application' after twelve weeks.

(Hiranmay Bhattacharyya, J.)